

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO 330/2023
Date of decision: 12.04.2023**

Jagir Chand and others

.....Appellants

Vs.

Munish Rehan and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Vishal Sharma, Advocate
 for the appellants.

NidhiGupta,J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.1,91,573/- granted by the Motor Accident Claims Tribunal, Pathankot (hereinafter referred to as 'the Tribunal') vide Award dated 03.10.2022 in a claim petition bearing MACP No.69/2021 under Section 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act'). Claimants herein are major brothers and sister of deceased Tripta Devi.

2. Learned Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased Tripta Devi had died due to injuries suffered by her in a motor vehicular accident that took place on

26.09.2020 due to rash and negligent driving of Car bearing registration

No.HP-38F-1314 (hereinafter referred to as the ‘offending vehicle’) being driven and owned by respondent no.1 and insured by respondent no.2 herein.

3. Ld. Tribunal awarded compensation as above along with interest @ 7.5% per annum from the date of filing of the claim petition till realization. Respondents herein were held jointly and severally liable to pay the compensation

4. Ld. Counsel for the claimants/appellants seeks enhancement of compensation on the ground that a very meagre compensation has been awarded to the appellants. It is submitted that only Rs.50,000/- has been granted by the learned Tribunal to all the claimants on account of no fault liability as statutorily available under Section 140 of the Act. It is submitted that under Section 166 of the Act ‘legal representatives’ are entitled to seek compensation, and the appellants are the legal representatives of the deceased Tripta Devi. In support of his contention, learned counsel for the appellants has relied upon ***‘Ram Kishore Gupta and others Vs. Munishi Ram and others, (P&H), Law Finder Doc ID#124345’***, ***‘Gurmail Singh Vs PRTC, Patiala (P&H): Law Finder Doc Id#5732’*** and Civil Appeal No.6451 of 2021 titled as ***‘N. Jayashree and others Vs. Chola mandalam M/s General Insurance Company Ltd.’***

5. No other argument has been raised by the learned counsel for the appellants.

6. Heard ld. Counsel.

7. Perusal of the case record shows that the appellants had pleaded before the learned Tribunal that the deceased was 42 years of age and was earning Rs.20,000/- per month from her vocation of stitching and

embroidery, as also from rendering other multifarious domestic services. The appellants had also pleaded before the Tribunal that all the claimants were totally dependent upon the income of the deceased and had no other source of independent income and are therefore, entitled for compensation.

8. However, admittedly, the appellants are 56, 47 and 48 years of age, respectively. Admittedly, two of the appellants are married brothers, and third appellant is married sister, of the deceased. On record, it has been admitted by appellant No.1/PW-1 Jagir Chand in his cross-examination that all the claimants Nos.1 to 3 are married. He further admitted that he was working as a Driver with GREF and was earning Rs.50,000/- per month. PW-1 Jagir Chand has further admitted in his cross-examination that claimant No.2, second brother of the deceased was working as a Labourer; and that husband of claimant No.3, sister of the deceased, was carrying on the business of cycle mechanic from which he was earning about Rs.10,000,. Thus, as per the appellants own evidence/ testimony, it is clear that they were not dependent on the earnings of the deceased for their survival as, they all are independently employed and have their own source of income. It has been clearly held in case of **‘Manjuri Bera Vs. Oriental Insurance Company Limited AIR 2007 SC page 1474’**, that pecuniary dependence of the claimants on the income of the deceased has to be established for them to be entitled to compensation.

9. Accordingly, I find no error in the compensation granted by the learned Tribunal in the following manner:-

i)	Amount of claim of the statutory benefit of no fault liability of compensation under Section 140 of MV Act.	Rs.50,000/-
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ii)	Medical bill	Rs.1,41,573/-
Total compensation		Rs.1,91,573/-

10. For the reasons stated above, I find no merit in this appeal,
and same is hereby, **dismissed**.

(Nidhi Gupta)
Judge

12.04.2023
ps-I

Whether speaking/reasoned Yes/No
Whether reportable Yes/No